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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,008	11/15/2000	Johann Engelhardt	102847-28	1885
29127	7590	10/29/2004	EXAMINER	
HOUSTON ELISEEVA 4 MILITIA DRIVE, SUITE 4 LEXINGTON, MA 02421			FERNANDEZ, KALIMAH	
			ART UNIT	PAPER NUMBER
			2881	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Allowability**

Application No.

09/681,008

Examiner

Kalimah Fernandez

Applicant(s)

ENGELHARDT, JOHANN

Art Unit

2881

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7-25-04.
2. ☒ The allowed claim(s) is/are 1,2,4-6,8,10-20 and 22-23.
3. ☒ The drawings filed on 25 November 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted:
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 1,2,4-6,8,10-20 and 22-23 are allowed. The following is an examiner's statement of reasons for allowance: the prior art of record fails to teach or fairly suggest the claimed invention. This supplemental notice of allowability addresses the inadvertent omission of claim 23.
2. Specifically, no teaching or obvious suggestion was found of the limitation " a replaceable specimen receiving device for receiving a carousel insert holding a plurality of specimens in a confocal scanning microscope, the specimen receiving device defining an axis of rotation and being rotatable and being rotatable about the axis of rotation" in combination with the limitation " wherein at least one laser beam is provided for scanning the specimens, and wherein the laser beam defines a non-zero incidence angle on the surface of the specimen receiving device" as in claims 1,10 and 23.
3. Claims 2-22 are allowed by virtue of their dependency.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays,

should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

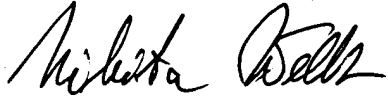
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pat No 6,586,750 issued to Montagu et al teach a confocal microscope having a rotatable scanning head. US Pat No 6,103,479 issued to Taylor teaches a specimen-receiving device (see fig.15). US Pat No 4,725,736 issued to Crewe is considered relevant to the claimed invention. Lastly, RE 30,974 issued to De Moss et al and US Pat No 6,548,796 issued to Silvermintz et al are also considered relevant to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalimah Fernandez whose telephone number is 571-272-2470. The examiner can normally be reached on Mon-Tues 6:30-3:30; Wed-Thurs 8-5 and Fri.9am-6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 571-272-2477. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF

  
NIKITA WELLS  
PRIMARY EXAMINER 10/27/04